

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

4 Plaintiff

5 v.

6 JESUS GAMBOA,

7 Defendant

Case No.: 2:13-cr-00341-APG-PAL

**Order Denying Motion for Relief for Time
Credit**

[ECF No. 65]

8 Defendant Jesus Gamboa submitted a letter that I will treat as a motion requesting that I
9 order the Bureau of Prisons (BoP) to credit him with time he spent in custody prior to sentencing.
10 ECF No. 65. Because Gamboa is challenging the duration of his confinement, I must construe it
11 “as a petition for habeas corpus under 28 U.S.C. § 2241.” *Tucker v. Carlson*, 925 F.2d 330, 332
12 (9th Cir. 1991). As such, Gamboa must seek his relief in the Eastern District of Pennsylvania
13 because a § 2241 petition must be brought in the district in which the prisoner is in custody.
14 *Rumsfeld v Padilla*, 542 U.S. 426, 442 (2004). And, Gamboa may not file a 28 U.S.C. § 2241
15 petition until he exhausts his administrative remedies. *Tucker*, 925 F.2d at 332 (“Generally, a
16 federal prisoner is required to exhaust his federal administrative remedies before filing a habeas
17 petition.”). It does not appear that Gamboa has exhausted his BoP administrative remedies
18 regarding the calculation of his sentence, so his motion is defective for that reason as well.

19 I THEREFORE ORDER that Gamboa’s motion for relief for time credit (**ECF No. 65**) is
20 **denied without prejudice.**

21 DATED this 26th day of August, 2019.



22 ANDREW P. GORDON
23 UNITED STATES DISTRICT JUDGE